

REMARKS

In section 3 of the Office Action, the Examiner rejected claims 1, 11, 16, 17, 28, 29, 32, 37, 42, 46, 47, 56, 57, and 88 under 35 U.S.C. §102(e) as being anticipated by the Adolph patent.

The Adolph patent was filed December 14, 1999. The present application was filed on June 11, 1999, before the filing date of the Adolph patent. Prior to the AIPA, 35 U.S.C. 102(e) provided that a U.S. patent is a reference as of the earlier of its filing date in the U.S. or, in the case where the U.S. application is based on an international (PCT) application, the date on which the national stage provisions of 35 U.S.C. 371 (c)(1), (2), and (3) were satisfied (which could be later than the date on which the application, claims, and drawings were filed in the U.S.).

The Adolph patent is not based on an international (PCT) application. It is merely based on an EP application. Therefore, the reference date of the Adolph patent is its U.S. filing date of December 14, 1999. Because this filing date of the Adolph patent is later than the filing date of the present application, the Adolph patent is not available for use as a reference against the claims of the present application.

See example 3 of MPEP §706.02(f)(1).

Accordingly, claims 1, 11, 16, 17, 28, 29, 32, 37, 42, 46, 47, 56, 57, and 88 are not anticipated under 35 U.S.C. §102(e) by the Adolph patent.

In section 5 of the Office Action, the Examiner rejected claims 59-62, 64, 70, 74, 75, and 81-87 under 35 U.S.C. §103(a) as being unpatentable over the Adolph patent in view of the Naimpally patent.

However, because the Adolph is not available as a reference as discussed above, the rejection in section 5 of the Office Action must fail.

Accordingly, claims 59-62, 64, 70, 74, 75, and 81-87 are not unpatentable under 35 U.S.C. §103(a) over the Adolph patent in view of the Naimpally patent.

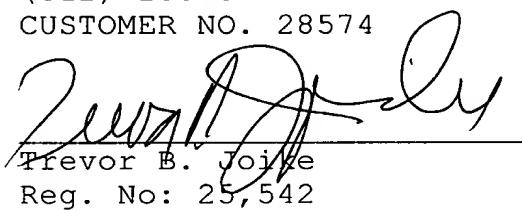
CONCLUSION

In view of the above, it is clear that the claims of the present application are patentable over the references applied by the Examiner. Accordingly, allowance of these claims and issuance of the above captioned patent application are respectfully requested.

Respectfully submitted,

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